

SENATE BILL NO. 372

INTRODUCED BY G. PERRY

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE QUALIFICATIONS FOR FIREFIGHTERS; CLARIFYING THAT A RURAL FIRE DISTRICT MAY APPOINT FIREFIGHTERS AND THAT THE DISTRICT MAY BE CONSIDERED AN EMPLOYER FOR PURPOSES OF RETIREMENT QUALIFICATIONS; REQUIRING THAT A FIREFIGHTER APPOINTED BY A RURAL FIRE DISTRICT MEET CERTAIN PHYSICAL QUALIFICATIONS; PROVIDING FOR QUALIFICATION OF CERTAIN FIREFIGHTERS IN THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; AMENDING SECTIONS 7-33-2105 AND 19-13-104, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

WHEREAS, the 60th Legislature enacted Senate Bill No. 532, authorizing participation in the Firefighters' Unified Retirement System by certain fire departments; and

WHEREAS, rural fire districts were among the fire departments authorized to participate in the Firefighters' Unified Retirement System; and

WHEREAS, proponents of Senate Bill No. 532, including the administrator of the Montana Public Employee Retirement Administration, testified that the purpose of authorizing rural fire districts to participate in the Firefighters' Unified Retirement System was to put the districts on a par with municipal fire departments in the recruitment and retention of career firefighters; and

WHEREAS, a full-paid firefighter of a rural fire district who joins the Firefighters' Unified Retirement System may apply Public Employees' Retirement System credits to the Firefighters' Unified Retirement System or may begin accumulating new service credit with the Firefighters' Unified Retirement System; and

WHEREAS, the Montana Public Employees' Retirement Board determined that an individual must have been a paid firefighter prior to the age of 35 in order to have become a member of the Firefighters' Unified Retirement System on September 11, 2008; and

WHEREAS, the Montana Legislature should consider the determination by the Montana Public Employees' Retirement Board to be contradictory to its purpose in enacting Senate Bill No. 532.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

1 **Section 1.** Section 7-33-2105, MCA, is amended to read:

2 **"7-33-2105. Powers and duties of trustees.** (1) The trustees:

3 (a) shall prepare and adopt suitable bylaws;

4 (b) have the authority to provide adequate and standard firefighting and emergency response apparatus,
5 equipment, ~~personnel~~, housing, and facilities, including real property and emergency medical services and
6 equipment, for the protection of the district;

7 (c) may appoint and form fire companies that have the same duties, exemptions, and privileges as other
8 fire companies for retirement purposes only;

9 (d) shall prepare annual budgets and request special levies for the budgets. The budget laws relating
10 to county budgets must, as far as applicable, apply to fire districts.

11 (e) may enter into contracts as provided in 7-33-2107; ~~and~~

12 (f) may pledge income to secure financing of the district as provided in 7-33-2109; and

13 (g) may appoint personnel, including firefighters, for the protection of the district.

14 (2) All money received by the trustees must be deposited in the county treasurer's office and credited
15 to the fire district.

16 (3) A firefighter appointed by the trustees must have passed a physical examination by a practicing
17 physician authorized to practice in this state who certifies that the firefighter meets the physical requirements of
18 the position as established by the rural fire district."

19
20 **Section 2.** Section 19-13-104, MCA, is amended to read:

21 **"19-13-104. Definitions.** Unless the context requires otherwise, the following definitions apply in this
22 chapter:

23 (1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a
24 county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban
25 firefighting services, or the entire county included in the county-municipal consolidation.

26 (2) "Compensation" means:

27 (a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for
28 the member's services before any pretax deductions allowed by state and federal law are made;

29 (b) for a part-paid firefighter employed by a city of the second class:

30 (i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments,

1 compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly
2 confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or

3 (ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding
4 overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of
5 sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the
6 second class.

7 (c) Compensation for full-paid and part-paid firefighters does not include:

8 (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments
9 in lieu of sick leave; and

10 (ii) maintenance, allowances, and expenses.

11 (3) "Dependent child" means a child of a deceased member who is:

12 (a) unmarried and under 18 years of age; or

13 (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution
14 as a full-time student in anticipation of receiving a certificate or degree.

15 (4) "Employer" means

16 (a) any city that is of the first or second class or that elects to join this retirement system under 19-13-211
17 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2), the department of
18 military affairs established in 2-15-1201;

19 (b) a rural fire district established under 7-33-2101.

20 (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.

21 (6) "Full-paid firefighter" means a person appointed by:

22 (a) an employer a city as a firefighter under the standards provided in 7-33-4106 and 7-33-4107; or

23 (b) a rural fire district as a firefighter under the standards provided in 7-33-2105(3).

24 (7) "Highest average compensation" means the monthly compensation of a member averaged over the
25 highest consecutive 36 months of the member's active service or, in the event a member has not served at least
26 36 consecutive months, the total compensation earned divided by the number of months of service. Lump-sum
27 payments for annual leave paid to the member upon termination of employment may be used to replace, on a
28 month-for-month basis, the regular compensation for a month or months included in the calculation of highest
29 average compensation.

30 (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following,

1 if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more
2 years of membership service.

3 (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in
4 excess of \$300 a year for service as a firefighter.

5 (10) "Prior plan" means the fire department relief association plan of a city that elects to join the
6 retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second
7 class.

8 (11) "Retirement date" means the date on which the first payment of benefits is payable.

9 (12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.

10 (13) "Surviving spouse" means the spouse married to a member at the time of the member's death."
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12 **NEW SECTION. Section 3. Qualification of certain members.** Any member of the firefighters' unified
13 retirement system on [the effective date of this act] who did not properly qualify for membership in the firefighters'
14 unified retirement system when appointed as a firefighter as provided in 7-33-4106 solely because the firefighter
15 had no full-paid or part-paid experience as a firefighter before reaching 35 years of age must be considered to
16 have been properly qualified for membership in the firefighters' unified retirement system as of the date of
17 appointment. The eligibility of a firefighter described in this section for membership in the system may not be
18 subject to reexamination after [the effective date of this act].
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20 **NEW SECTION. Section 4. Effective date.** [This act] is effective on passage and approval.
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22 **NEW SECTION. Section 5. Retroactive applicability.** [This act] applies retroactively, within the
23 meaning of 1-2-109, to any full-paid firefighter of a rural fire district who on April 26, 2007, met the qualifications
24 of firefighters pursuant to 7-33-2105(3) as amended by [this act] and who continues to meet the qualifications of
25 firefighters on [the effective date of this act].
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